

**PLANNING COMMISSION MINUTES OF FEBRUARY 13, 2006**

**2005-1208** - Appeal of a decision by the Director of Community Development denying a Miscellaneous Plan Permit to allow a change to the color of the roof for a site located at **415 East El Camino Real** (APN: 211-01-029) JM

**Jamie McLeod**, Associate Planner, presented the staff report. She said staff has aesthetic concerns with this request and is recommending that the Planning Commission uphold the decision by the Director of Community Development and deny the appeal, and require the shake be repainted to the original dark brown color. **Trudi Ryan**, Planning Officer, said that staff's concern are with the site on which this restaurant is located and the inconsistency in roof color with the two nearby buildings that have natural color roofs. The blue roof is a departure from what was previously approved for this site. The Planning Commission has the authority to determine whether a distinctive architecture for this building is warranted.

**Comm. Babcock** asked if staff ever issued Miscellaneous Plan Permits on a temporary basis requiring a roof color revert back to the natural color if the use changed. Ms. Ryan said no and that the architecture needs to stand on its own. Ms. Ryan said the use is the same as the previous use. Comm. Babcock asked if a McDonalds with a red roof were sold to someone else, would the new owner need to retain the red roof. Ms. Ryan said the new owner might have to retain the red color, but it depends on the original approvals. Comm. Babcock asked if staff had complaints from the adjacent property owners regarding the roof color. Ms. McLeod said there have been no complaints and that it was a City staff person from Neighborhood Preservation had brought the blue roof to the attention of the Planning Division. Comm. Babcock asked if the other brightly colored roofs that are along El Camino Real are all metal. Ms. Ryan said, to the best of her knowledge, the other roofs along El Camino Real are either metal or tile and that this is the only shake roof in Sunnyvale that has been painted.

**Chair Hungerford opened the public hearing.**

**Gurpreet Shergill**, representing the appellant/applicant, provided a document to the Commissioners explaining the reasons for filing the appeal on behalf of the American Diner restaurant. He thanked the Planning Commission for the opportunity to address the concerns. He said the American Diner would like to retain the blue-colored roof top that currently exists. He said that the blue-colored roof is consistent with the patriotic theme of the restaurant, which is primarily red, white, and blue, and is consistent with other "American Diners" as part of their "branding" to help consumers identify the restaurant. He said that on December 22, 2005 the Director of Community Development denied the request to maintain the blue-colored roof indicating concern with the brightness of the color and the loss of "wood-like" appearance, with the color not being consistent

with the originally approved architectural plan of the center. He commented that the building is not physically connected to the other buildings in the shopping center. Mr. Shergill provided examples of other businesses with colored roofs in Sunnyvale noting that many of the examples are businesses that have themes or branding as part of their marketing strategies. He indicated that by not being allowed to have the blue roof that it could hold the business back from potential opportunities. He asked the Commission to reconsider allowing American Diner to retain the blue roof.

**Comm. Simons** asked Mr. Shergill if he knew the age of roof or how long the current roof is expected to last. Mr. Shergill said he did not know, but he would estimate the roof could last 15 or 20 more years before it will need to be replaced. Comm. Simons confirmed with Mr. Shergill that he leases the property and asked if he knew that this site was in a Planned Development (PD) zoned strip of retail when the property was leased. Mr. Shergill confirmed that he did not realize there were special requirements that might apply. Comm. Simons asked staff, for a PD zoned area, if it is allowable to repaint the exterior walls. Ms. McLeod said staff can approve minor changes, but for major changes, like stronger statements of color, Planning Commission approval is required. Ms. Ryan added that each project is different and that some projects are more specific on colors that can be approved and other projects that allow more discretion of staff. Ms. Ryan said that staff felt, in this case, that roof color needed to be reviewed.

**Comm. Sulser** referred to Condition of Approval (COA) 1.B. and asked the applicant if he thought re-painting the roof with a flatter shade of blue (non-shiny) paint would affect the marketing of the restaurant. Mr. Shergill said that changing the shade of blue on the roof as indicated in COA 1.B. would take away from their branding.

**Harriet Rowe**, resident of Sunnyvale, said that she has been to the American Diner several times, but the painted shake roof does not appeal to her. She commented that if the American Diner has good service, good food, and is a good value then the color of the roof should not affect the success of the business. She said she agrees with staff that the blue roof is out of character with the rest of the shopping center.

**Mr. Shergill** commented that other American Diner restaurants are being opened in California. He said this restaurant and the other American Diners all maintain the same red, white and blue theme. He reiterated that if the American Diner on El Camino Real is not allowed to maintain the blue roof at that this particular location that this site would be inconsistent with the American Diner branding.

**Chair Hungerford closed the public hearing.**

**Comm. Babcock** asked staff about the affect of paint to the life of a shake roof. Ms. Ryan said this is the first painted shake roof that staff has seen and the affect of the paint is unknown. Comm. Babcock and staff discussed alternatives to the current roof color.

**Comm. Simons made a motion for Alternative 1 to uphold the decision by the Director of Community Development and deny the appeal, and require the shake to be repainted to the original dark brown color. Vice Chair Fussell seconded.**

**Comm. Simons** said he asked the applicant about the remaining life of the roof in case it was it was possible to wait until it was time to replace the roof and change the roof materials at that time. He said since the roof will not need to be replaced for a long time then the waiting to change the roof is not an option. He said the current blue roof is not the intent for the look of the roof for this Planned Development retail space. Comm. Simons said it is unfortunate that the applicant was not made aware of the restrictions when leasing the site.

**Vice Chair Fussell** said he agrees with Comm. Simons and could not make the findings to reverse the decision. He said he does not look at the color of the roof of restaurant when he is eating out, but looks for a restaurant with good food, value and service. Vice Chair Fussell said he will be supporting the motion.

**Comm. Babcock** said she will be supporting the motion as she is unable to make the findings. She said if there are too many colored roofs along El Camino Real that the street will look gaudy.

**Chair Hungerford** said he will be supporting the motion. He commented that one of the biggest mistakes that may have been made along El Camino Real in Sunnyvale is the approval of too much corporate architecture with branding. He said that he understands the frustration of the applicant, but that staff has explained that this is a PD area which makes it unique. If corporate architecture is inconsistent with the plans for El Camino Real then the Planning Commission should not approve the corporate architecture.

**Final Action:**

**Comm. Simons made a motion on 2005-1208 to uphold the decision by the Director of Community Development and deny the appeal, and require the shake to be repainted to the original dark brown color. Vice Chair Fussell seconded.**

**Motion carried unanimously, 6-0.**

**This decision of the Planning Commission is final.**